

**CITY OF MORGAN HILL
JOINT REGULAR REDEVELOPMENT
AND SPECIAL CITY COUNCIL MEETING
MINUTES – MAY 28, 2003**

CALL TO ORDER

Chairperson/Mayor Kennedy called the special meeting to order at 7:03 p.m.

ROLL CALL ATTENDANCE

Present: Agency/Council Members Carr, Chang, Sellers and Chairperson/Mayor Kennedy
Absent: Agency/Council Member Tate

DECLARATION OF POSTING OF AGENDA

Agency Secretary/City Clerk Torrez certified that the meeting's agenda was duly noticed and posted in accordance with Government Code 54954.2.

SILENT INVOCATION

PLEDGE OF ALLEGIANCE

Chairperson/Mayor Kennedy extended an invitation to Lew Aebersold, past president of the Kiwanis Club, to lead the Pledge of Allegiance.

RECOGNITION

Recreation and Community Services Spier presented a 3 minute video of the Art Ala Cart event.

Therese Luggier indicated that the Fourth Annual Art Ala Cart "Magic of the Arts" event was fabulous, estimating 1,200+ in attendance. This year's efforts were combined with the Morgan Hill Police Department's Children's Fair. She indicated that the First 5 Program Santa Clara was a major sponsor of this event.

Mayor Kennedy presented Certificates of Recognition to Morgan Hill Kiwanis Club, Morgan Hill Rotary/Dr. Cohen, Children's Garden, First 5, Media Arts, and the Morgan Hill Historical Society for their efforts/sponsorships.

Ms. Luggier indicated that there were many other sponsors of the day, including Rocky Garcia and many other community volunteers.

COUNCIL REPORTS

Mayor Pro Tempore Chang reported that the lease agreement between the architect and the San Jose Diocese, on behalf of the Day Workers' project, has been signed. It was her hope that within a few months, the community will see the opening of the Day Worker Center.

City Manager Tewes reported that the City's drinking water supply meets or exceeds all State and federal standards. He stated that at the Council's direction, staff has been monitoring all City wells for

the contaminate perchlorate which has been found in some wells in South County attributable to the Olin Corporation's operation. This month, no wells showed detectible levels of perchlorate. Therefore, there is non-detect perchlorate in all of the City's wells. Just before the holiday, the Council requested that staff look into the possibility of participating in experiments regarding vegetables. Staff has recently learned about the importance of a controlled experiment and of potential interest of relevant and responsible agencies for this testing and that staff will be following up on this.

COUNCIL SUBCOMMITTEE REPORT

None.

PUBLIC COMMENT

Chairman/Mayor Kennedy opened the floor to public comment for items not appearing on the agenda.

Cindy Gobin requested an update on the status of her request for a community test garden at Live Oak High School.

Executive Director/City Manager Tewes indicated that staff has not had the opportunity to check with the School District about a possible test garden.

Mayor/Chairman Kennedy stated that the City needs time to perform an assessment to identify what it will take to conduct a test garden.

Ms. Gobin indicated that Live Oak High School has a garden planted and that it was her understanding that most elementary schools have planted gardens. She felt that the City would be losing a window of opportunity to perform a test garden as it takes time for vegetables to grow to maturity so that they can be tested. She found that the County already tests for residual pesticides on vegetables. It was her understanding that the same process can be used to test for perchlorate. She felt that the longer it takes for anyone to do something about testing perchlorate time will run out. She indicated that she recently read in a news article that stated that produce in Southern California was being tested for perchlorate. It was found that Southern California's vegetables planted with city tap water had 2-3 times the amount of perchlorate concentrate in them.

Chairman/Mayor Kennedy requested that Ms. Gobin provide him with a copy of the information she was referring to. He indicated that Council members met with the Department of Health Services when they were in Sacramento. Discussed were studies performed on the concentration of perchlorate in vegetables. He indicated that it was not an easy process to perform correctly.

No further comments were offered.

Redevelopment Agency Action

CONSENT CALENDAR:

Action: *On a motion by Agency/Council Member Sellers and seconded by Agency/Council Member Carr, the Agency/Council, on a 4-0 vote with Agency/Council Member Tate absent, **Approved** Consent Calendar Item 1, as follows:*

1. **APRIL 2003 FINANCE AND INVESTMENT REPORT**

Action: **Accepted** and **Filed** Report.

City Council Action

CONSENT CALENDAR:

Mayor Kennedy indicated that the general concept of the response letter to the Grand Jury associated with Consent Calendar item 4 is fine, but that there are minor grammatical changes that he would like to make to the letter. These changes would keep the body of the letter the same. He recommended approval of the letter this evening, subject to minor grammatical changes being incorporated.

Action: *On a motion by Council Member Sellers and seconded by Council Member Carr, the City Council, on a 4-0 vote with Council Member Tate absent, **Approved** Consent Calendar Items 2-4, as follows:*

2. **PERFORMANCE MEASURE UPDATE – MAY 2003**

Action: **Received** and **Filed** Report.

3. **RESPONSE TO SANTA CLARA COUNTY CIVIL GRAND JURY INQUIRY INTO HIRING PRACTICES FOR YOUTH SPORTS COACHES**

Action: **Approved** Response to Grand Jury Report, with grammatical corrections to be incorporated by Mayor Kennedy.

4. **SPECIAL CITY COUNCIL MEETING MINUTES FOR MAY 15, 2003**

Action: **Approved** the Minutes as submitted.

Redevelopment Agency and City Council Action

OTHER BUSINESS:

5. **INVESTMENT POLICY UPDATE**

Director of Finance Dilles presented the staff report, indicating that the specific changes the Finance & Audit Committee have been discussing relates to investing monies in the local community. He indicated that the Committee has spoken with representatives from two local banks: South Valley National Bank and Heritage Bank South Valley. These banks were helpful in talking to the Committee with respect to the ways that local investments help the community. Out of these discussions came a proposal that

would increase the amounts of investments in a certificate of deposit from \$1 million to \$2 million and would lengthen the maximum maturity from 1 year to 2 years for certificates of deposit. Also, a new goal would be added to the policy which would state that the policy would encourage local economic benefits to Morgan Hill residents and businesses by investing in local financial institutions, subject to legal control. The Committee believes that with these proposed changes, there would be more flexibility to invest more monies locally.

Mayor/Chairman Kennedy opened the floor to public comment

City Treasurer Roorda stated that the recommended change in the policy would broaden the City's ability to consider investments that could benefit the City's financial portfolio as a whole and achieve an objective of investing locally. He said that local banks are offering attractive terms in terms of the interest rates that they would provide. He looks for opportunities for the City to increase its returns in the term of the investments should interest rates increase. He said that one financial institution is willing to provide this option to the City.

No further comments were offered.

Vice-chair/ Mayor Pro Tempore Chang felt that the recommended policy is a good one.

Agency/Council Member Sellers stated that in going through the policy, he felt that the City Treasurer and staff noted some inconsistencies in the policy that had not been updated previously. Therefore, the Finance and Audit Committee was able to clean up the policy in general. He said that in interviewing the institutions and talking about the options, it became apparent that the City has some viable options and that there are significant benefits to investing locally. He thanked the Committee members who raised the inconsistencies.

Action: *On a motion by Agency/Council Member Sellers and seconded by Agency/Council Member Carr, the Agency/Council, on a 4-0 vote with Agency/Council Member Tate absent, **Adopted** the Updated Investment Policy for the City.*

Action: *On a motion by Agency/Council Member Sellers and seconded by Agency/Council Member Carr, the Agency/Council, on a 4-0 vote with Agency/Council Member Tate absent, **Adopted** the Updated Investment Policy for the Redevelopment Agency.*

City Council Action

PUBLIC HEARINGS:

6. MEASURE P APPEAL APPLICATION AP-03-01: EAST DUNNE - DEMPSEY

Mayor Pro Tempore Chang indicated that she has a conflict with Measure P appeal application Barrett-Odeshoo. Therefore, she would be stepping down from discussing this item. She stated that she has been advised to recuse herself from the three Measure P appeal applications this evening.

City Attorney Leichter stated that Mayor Pro Tempore Chang has a conflict with appeal item 2. However, as Measure P is a cumulative ranking system, theoretically, the appeal, if granted for any of these projects, would affect the ranking system of all Measure P applications. Therefore, there may be an indirect economic interest at stake.

Planning Manager Rowe presented the staff report indicating that the applicant is requesting that the Council review the Planning Commission's evaluation under: Schools, Public Facilities, Circulation Efficiency, and Natural & Environmental categories. Based on staff's review of these categories, staff is not recommending any adjustments to the project's score and recommended that the Council upholds the Planning Commission's evaluation of this project by adoption of the resolution before the Council. Mayor Kennedy opened the public hearing.

Janet Dempsey addressed the comments contained in the appeal letter dated April 22, 2003 for the Jasper Park project. She felt that there were major discrepancies that need to be addressed prior to the decision regarding her project. She addressed the following areas:

Schools Category – The project was not located within a $\frac{3}{4}$ mile walking distance. However, a safe access would be provided across the street at a signalized intersection at Butterfield for children. This signalized intersection would increase the walking distance beyond the $\frac{3}{4}$ mile. She argued that if this is an issue of safety for children, then a Butterfield crossing is still not the answer. She indicated that children will not walk out of their way to get to a destination. She felt that the School District would be asking children to walk approximately $\frac{2}{10}$ of a mile out of their way in order to cross San Pedro to access the school. She did not believe that this was the appropriate route when you consider a safe walking route for children. She informed the Council that the project commits to providing safe passage at San Pedro and Cory Lane which is felt would be a more direct and likely route from this development and the adjacent development for children to take to get to school versus walking $\frac{2}{10}$ of a mile out of their way. She felt that this would be a common walking route for children once this site and the adjacent development are completed. She requested one additional point under the School's category.

Circulation Efficiency Category – Project commits to stubbing the other side of East Dunne Avenue proposed as part of this application. Staff does not recommend points for the off site street as it is not adjacent to the proposed project. She argued that the street stub does not have to be adjacent to the proposed project to meet the criteria. She said that nowhere in the Measure P criteria does it state that this has to be the case. The criteria states that the stub only needs to provide for property access or circulation to adjacent properties. She stated that this project provides for this when she offered to build a stub adjacent to her development. She said that she placed the stub in what was felt to be the most logical spot on Dunne Avenue based on the recommendations of City staff for the lighted signal on Dunne Avenue. She felt that this project meets the criteria and that there was precedent set by the Union Pacific Homes' project as they received points for providing this similar type of stubbing.

Natural & Environment Category – She indicated that staff has stated that this project is not preserving a substantial amount of trees. She noted that the trees in question are aging walnut

and very scrubby looking eucalyptus trees. She did not know of any time in the history of Measure P where points were awarded for preserving these types of trees. She said that the project preserved trees that were felt to be significant and would add value to the project. She said that the project was being penalized points for removing these types of trees.

Public Facilities Category – She indicated that this area is confusing and riddled with discrepancies.

Ms. Dempsey indicated that it was her hope that these projects would be returned to the Planning Commission for further scrutiny of the points and to clear up any discrepancies. This would allow all projects to compete affectively.

John Telfer said that he has worked on Measure E/P projects for many years. He felt that there was a bias this year and that there was an over stepping of the Council's direction regarding set asides for already allocated projects. He agreed that projects in progress should be completed. He said that if a question comes up on a partially allocated project, the project was given the benefit of the doubt. He did not believe that this was the case for new projects. Under the public facilities category, staff outlines in their report their explanation why they believe some of the points were not warranted. A comment was made in the staff report that two projects were acquired by the same developer. At the time the Measure P points were awarded several years ago, this was not the case. The projects were under different owners: Steve Sheng owning Twin Oaks, and Delco owning the property to the north. Staff also states that the oversized pond built on Monte Villa (Delco) was interconnected with Steve Sheng's project. He clarified that points were awarded for over sizing the pond to help mitigate down stream flooding concerns. He said that Bill McClintock, designer of the storm drainage systems for all three projects, was in attendance to answer technical issues. He indicated that over sized catch basins are used to retain water during storms. He said that two projects have been awarded points for this concept while this project did not receive any points. He stated that Vince Burgos was also in attendance to answer questions, indicating that Mr. Burgos represents a number of Measure P projects. Therefore, there are conflicts of interest issues and that he could not argue for points but can respond to specific questions relating to this project and global issues as well. He felt that if this project had prior partial allocations, the project would be receiving the vast majority of the points being requested this evening in the appeal process. He stated that it seems that because it is a new project, it is being treated differently and that it is not in an even level playing field this year. He felt that Measure P was intended to have the best project win the allotments.

Bill McClintock stated that the points under Public Facilities are related to providing additional capacity beyond what the project is required to do. He felt that it was important to note that staff agrees that this project provides a park big enough with a pond that was larger than needed for the project. He noted that the same concepts were presented to the City under a previous application. The project was located upstream from another project located down stream. The project located upstream was able to provide a mitigation, increasing the size of the pond in such a way that the down stream project did not need a pond. This is what is being proposed for this project. He did not believe that it would be right to go through the expense of performing detailed hydraulic calculations for Measure P applications. He stated that the applicant made the commitments to perform detailed hydraulic calculations. If this does not work, there is a way for the City to require other commitments to make up the points. He requested that

the Council award two points under the public facilities category. He informed the Council that this project needs one additional point to receive the maximum 10 points under this category, should the Council grant one additional point.

Vince Burgos, Development Process Consultants, addressed a criteria that is global that affected more than this particular project. This is the issue of acquiring a stub to an adjacent property. He said that the only opportunity that this particular applicant had to provide access was based on the project being an infill project. He noted that three sides of the property were fully developed and that all streets and circulation elements were installed. He said that staff gave the applicant direction to provide an egress/ingress at an intersection on Dunne Avenue. He felt that this particular project went beyond providing a stub; they acquired a letter to acquire the property and have agreed to install the improvements.

No further comments being offered, the public hearing was closed.

Council Member Sellers stated that his comments will apply to all three appeal projects to some degree. He felt that the Council's focus needs to be whether or not these appeal applications need further consideration by the Planning Commission. He did not know if it made sense for the Council to make final decisions this evening for a variety of reasons. He felt that it would make sense for the Council to provide specific direction and refer these applications back to the Planning Commission for consideration. He felt that it was important, in weighing the appeal applications that the Council be as fair as possible. Even though the Council is being requested to consider specific items, he felt that the global significance of these items needs to be considered, including how they would impact the entire process. With respect to this project, there were concerns expressed about consistency that have been raised with this application and subsequent applications. The concerns had two forms: 1) the process/procedural inconsistency and 2) how much time was allotted. He felt that there was far too much time, energy and money put into projects and that the inconsistencies need to be addressed as much as possible. He noted that the Council is being requested to consider consistency in terms of how points were awarded. He felt that there were some categories that the Council might want to give added consideration. The school access is a category that is of interest to him as there is logic of what children will do and what makes the most sense to do. He recommended that this issue be further addressed. Regarding the stubbing, he felt that this was an attempt to address a Measure P issue but that he did not know what the benefit to the community would be. He sees some residual second hand, long term benefits to this. He stated that this is a category that he does not have a particular concern with. He stated that eucalyptus trees are a huge problem in residential neighborhoods. He recommended that the Planning Commission be requested to give further consideration to the eucalyptus and scrub trees. Although he is a strong advocate for retaining important trees, he wanted to make sure that if trees are not beneficial that they are not treated as such. Regarding the public facilities category, he felt that the comments warrant further consideration. However, he is considering the difference between what makes the most sense for the community and what makes the most sense for achieving the points and this is what troubles him.

Council Member Carr indicated that this is the first time that he is going through significant Measure P appeals and that he was struggling with the process. He said that there are some categories that need to be reviewed and that he did not know what it would mean to the other projects that did not file appeals.

He would hate to set a precedent tonight that would encourage individuals to file an appeal in order to protect their points. He felt that the Council needs to discuss this concern in a global context. He noted that the School District scores the School category section. He said that there is a lot of logic in thinking about the direction a child will walk to access a school and what is the safest route for a child. He felt that the City could plan for safe school routes but getting children to use these safe routes is the hard task. He said that the Council may wish to consider changes to the Schools category as part of the Measure P update. He felt that the applicant's argument made a lot of sense. He felt that the City wants to encourage infill projects but that they are going to have a lot of trouble scoring under this category if the City remains rigid in the way that this category is applied. If a project has development surrounding it and a project does not have the opportunity to perform additional circulation, the project will be penalized. He felt that this needs to be addressed in Measure P as it was his belief that the City needs to encourage more infill projects. He was not sure whether the Council was the right body to be awarding points as the Planning Commission and staff go through a very significant process to award points. He said that the Council could give the Planning Commission direction to take a look at certain area as an approach versus having the Council award points this evening.

Mayor Kennedy said that he has gone through several appeal processes and that this is the first year, in a long time, that he has heard complaints about inequities in the way the point scoring has been conducted. He indicated that several applicants stated that they were not heard or given a fair opportunity to present their case. He felt that this reason in itself was a sufficient justification to send all three appeal applications back to the Planning Commission. Having heard the specific issues that have been raised, he felt that they were valid concerns and that the Planning Commission needs to look at. He noted that there is some concern about the comments made by Mr. Telfer that there seems to be a specific preference for ongoing projects in excess of what the Council intended to the point where good projects are not being awarded points. He agreed that projects that are under construction are important but that the City should not eliminate quality projects in an over exuberance of trying to protect ongoing projects. He supported the comments that have been made by Council Members Carr and Sellers.

Council Member Sellers stated that he would like to give some thought and direction to the Planning Commission as the Council sends these applications back to them for reconsideration. He felt that there were several important issues that were raised and that this application was the closest to receiving points. He said that he had a hard time determining how the project would receive the 2.5 points needed to receive allocations. He stated that areas of ambiguity need to be addressed and given further consideration/explanation. If necessary, the project should be dealt with in a way that would place it in a level playing field. He felt that the stubbing and the infill issues were valid concerns, particularly in a project such as this one that provides multi family units that are needed in the community. He supported reconsideration of the school access. He felt that the Planning Commission needs to be consistent in talking about this policy when it is an infill project. Regarding the natural and environmental categories, he felt that there was not enough significance to warrant the retaining of the eucalyptus and walnut trees and that it is almost a reverse point process. He felt that the Planning Commission needs to look at this as well. He recommended that the Planning Commission also review the public facility category and state that this is significantly different from the other project or providing clarification why they are not awarding points as part of the process. He noted that this is a difficult year as there are a couple of significant issues that the City is looking at next year: an update of Measure P and the proposal for

conducting competitions every other year. Both of these heighten anxieties and felt that these need to be kept in mind. He felt that it was important to spend time and clarify these issues.

Action: *On a motion by Council Member Sellers and seconded by Council Member Carr, the City Council, on a 3-0 vote with Mayor Pro Tempore Chang and Council Member Tate absent, **Referred the Application** back to the Planning Commission, directing the Planning Commission give additional consideration to the issues and concerns raised by the Council.*

City Attorney Leichter stated that it would be appropriate to consider each appeal application separately.

City Manager Tewes noted that there were a number of issues raised during the testimony to which staff could respond. In light of the Council's motion, staff could respond at the conclusion of all the hearings as some of the responses are generic. He felt that some clarification from staff would be helpful to the Council.

Council Member Sellers felt that a staff response and clarification was warranted. It was his belief that this would be best done in a broader forum at a Planning Commission meeting. He did not now how much further the Council would be able to proceed with the appeals.

City Manager Tewes indicated that the Planning Commission has had the benefit of the hearings, comments and response from staff which can be done again. He was not clear whether the Council had the benefit of staff response.

City Attorney Leichter suggested that the more generalized comments the Council has on the first project be incorporated into the record for the second and third projects. She recommended that the Council address the specific concerns associated with each particular project.

7. MEASURE P APPEAL APPLICATION AP-03-02: BARRETT - ODISHOO

Planning Manager Rowe presented the staff report, indicating that this is an appeal of the Planning Commission's evaluation under the public facilities, quality of construction and lot lay out categories. Staff recommends the Council uphold the Planning Commission's evaluation by the adoption of a resolution. Should there be areas that the Council believes that the Planning Commission should give further review; staff would take these areas of concern back to the Planning Commission.

Mayor Kennedy noted that the applicant's memo regarding quality of construction states that at the Planning Commission hearing, the Commission did not consider all projects for this criterion. He further noted that the memo states that the Planning Commission limited the awarding of one point and that only the top four to five projects were discussed, noting that these were ongoing projects.

Mr. Rowe clarified that the Planning Commission applied the scoring to every project they felt worthy of one point. At the end, all points were tallied. The Planning Commission looked at a cut off point, reviewing which projects had a reasonable likelihood of receiving allocations. An alternate way of looking at this is whether the one point the Planning Commission granted would make a difference in

whether the project received an allocation or not. If it did not, the Planning Commission did not assign the point. He indicated that the top list of projects included new projects as well as ongoing projects that received the point.

Council Member Carr noted that staff indicated that the Planning Commission put together five rating factors under Quality of Construction which they individually weighed against each project. He inquired how the Planning Commission determined what the rating factors would be.

Planning Manager Rowe indicated that the Planning Commission spent time at three different meetings and spent hours discussing attributes. The rating factors used were aesthetics and the usability of the open space within the development. Each Commissioner gave different weight to each of these factors as what they felt represented a superior project. Each project was totaled and an average score derived. He indicated that the projects that scored highest on the overall average were the ones that were given the point. The Planning Commission looked at whether or not the one point made a difference to a project and placed it in a position for allocation.

Mayor Kennedy referred to the lot layout category and noted that significant comments were made about disagreeing with the award of the two points.

Planning Manager Rowe indicated that staff has had the opportunity to review all of the applicant's appeal comments. He noted that staff's responses have been summarized on page 110 of the agenda packet.

Mayor Kennedy opened the public hearing.

Alexander Henson, representing the applicant, indicated that he would like to focus on the lot layout issue which encompasses 3 subordinant issues. He stated that the project was given one unit credit for the lot layout. Two credits were not given because of three minor problems. He said that there are two ways to handle the appeal: 1) refer the application back to the Planning Commission; or 2) for the Council to reexamine this issue. He expressed concern that what the Planning Commission heard was unreasonable and that it would be up to the Council to correct what seems to be an arbitrary and capricious application. He said that the number one reason for the minor problem was the fact that the triplexes were located at one end of the property. However, the applicant was told that since the adjacent properties were to be of higher density, this project should locate the higher density units adjacent to the higher density units of the adjacent properties so that the densities would flow. To state that it is a minor problem to locate the denser portion of the project adjacent to the denser zoned project appears to be a conflict. It was felt that the project was designed appropriately only to be told that it was not. He felt that it was irrational to state that the project should not be denser adjacent to the denser designated property. The second issue of concern pertains to a particular lot. The lot was described as having a minor problem because it appears to be inconsistent with the rest of the development. He noted that single family housing is proposed. The unit is lined up on different axes as opposed to the other units. In terms of the visual affect, when you come around the corner, the two lots will appear to have the similar footage. The axis of the house happens to be different but that the appearance would be similar to the lot across the way. He felt that it was arbitrary and capricious to state that the lot has a minor problem in the lot layout category. The third issue is that out of the 36 units, there are

approximately 10 units that have side by side driveways. He was not aware that there was a criterion that made having side by side driveways a bad thing, especially when a project has as many duplexes as this project has. It was his belief that the score on this matter was also arbitrary and capricious. He requested that Mr. Burgos be invited to address whether the side by side driveway issue has been raised as a problem elsewhere because he was not aware that it was a problem in the past.

Vince Burgos indicated that the property to the south of this site is zoned R-3 and the property to the north R-2. He noted that this is an R-2 zoned project and that there are a large number of units that are attached. Therefore, you can only put the garages side by side. He went through great lengths in the design to avoid this, wherever possible. In looking at the plans, they only exist in approximately 30% of the units. He said that instead of being recognized for a minimal amount of driveways next to each other, the project was penalized because only 30% are adjacent to each other. He said that this was a difficult process.

No further comments being offered, the public hearing was closed.

Council Member Carr said that when he read the report, it appears that 30% of the units have side by side driveway aprons. It was being suggested that this may be too many side by side driveways and that it was being characterized tonight that this was not enough.

Planning Manager Rowe clarified that the project provided 30% driveway aprons that were side by side and that this was considered to be a minor problem with the site layout. It was felt that this was a high percentage because it creates 40-foot curb cuts and provides a lot of hardscape. He noted that this is an R-2 zoning district and that this is one of the characteristics of the project. He said that there are opportunities for points based on the zoning of the project that cannot be earned by a single family project. He said that the City strives to avoid a competitive nature from the ongoing project over the new and vice versus.

Council Member Carr felt that this issue gives a competitive advantage to single family units.

Planning Manager Rowe said that staff initially looked at this, in terms of what constitutes a superior lot layout, it was subjective. Staff tried to quantify this by looking at what constitutes a major/minor problem. Staff strived to apply the intent of Measure P in a consistent manner across the board. The applicant did not respond to this issue in their written letter and the Commission did not ask that staff look into this issue. He indicated that the Planning Commission only asked staff to look at the public facilities area. Should the Council feel that there is merit to the applicant's remarks, he recommended that the Council refer this back to the Planning Commission.

Mayor Kennedy inquired whether the City had any criteria relating to the side by side driveway issue.

Planning Manager Rowe read the language of the criteria and identified the scoring criteria for Lot Layout B1f. He said that staff needs to determine what constitutes an average, above average, or superior lot layout. The City would also need to determine what would represent a major or minor problem. Staff would need to come up with a way of doing this and applying this in a consistent way across the board. In this instance, staff looked at the higher percentage of driveway aprons that are side

by side compared to other projects. Staff did not believe that this was a major problem because it is a necessity, in certain respects, because of the zoning. However, it is not necessarily a desirable attribute because you have a lot of long, wide curb cuts in the development. He felt that there may be opportunities to provide side loading garages that would allow the garage aprons to be expanded further apart. The project could split the driveway aprons of paired units. He felt that there were alternative solutions to further reduce the percentage.

Council Member Carr appreciated that the City had to find ways to apply the criteria. He did not see how the City could apply the criteria without penalizing a project for providing attached units. He was not sure if it was appropriate as these are affordable units. He did not believe that the City should simply build single family units in Morgan Hill. He felt that staff's explanation helped explain alternative solutions to the side by side driveway apron scenario. He felt that this criteria needs to be looked at in how it is applied in this case. He noted that staff indicated that the Planning Commission put together five rating factors that would be applied to the different projects where a point could be applied under quality of construction. He felt that this was an area that was subjective. He expressed concern that he did not know what these rating factors were. He noted that the Council did not see these rating factors before they were applied to any of the projects. He felt that the City needs to have the ability to have a subjective point but that he felt that the elected Council should have some input as to what these factors are and how they are to be applied by the Planning Commission. He stated that allowing the Planning Commission to subjectively choose and apply the points was somewhat troublesome to him.

Council Member Sellers said that on the issue of quality of construction, the Council gave the Planning Commission the charge of looking at this issue. He did not believe that this was the only subjective criteria but that it was the most subjective. He did not believe that it would make sense to grant the applicant the additional point under quality of construction but that it might make sense to go back and state to the Planning Commission that this is a bigger issue and that the Council would like additional input on the criteria that they used overall. He did not believe that it would impact the score on this project. He felt that this appeal is different from the earlier appeal in that the first application was closer in attaining allocation. He said that the lot issue is of concern because of the triplex. He recommended that this specific issue be referred back to the Planning Commission for clarification. The Planning Commission can state clearly how the criterion was applied. He said that he would have a hard time seeing where an extra point would be given to this project.

Mayor Kennedy stated that he would like to have the Planning Commission review the quality of construction for this project just as they did for other ongoing projects.

Council Member Sellers stated that it was his understanding that the Planning Commission did review the quality of construction for this project but that they did not believe that the project warranted an extra point. He noted that the Council did not know the criteria used by the Planning Commission and that it was going on the faith of the Planning Commission that they reviewed each and every Measure P application with equal care and that they applied the same criteria to each. He did not know how the project would achieve the extra point. He stated that the Council was not aware of the subjective criteria used by the Planning Commission and that it would be helpful for the Council to know what they were.

Mayor Kennedy stated his support of sending this application back to the Planning Commission to review the Quality of Construction and the Lot Layout categories.

Action: *On a motion by Mayor Kennedy and seconded by Council Member Carr, the City Council, on a 3-0 vote with Mayor Pro Tempore Chang and Council Member Tate absent, **Referred** the Quality of Construction and Lot Layout Categories back to the Planning Commission.*

8. MEASURE P APPEAL APPLICATION AP-03-03: WEST EDMUNDSON – PINN BROTHERS

Planning Manager Rowe presented the staff report, noting that this project has the most extensive list of scoring changes being requested. The applicant is requesting Council consideration under the school categories, orderly & contiguous, housing needs, quality of construction, lot layout, and circulation efficiency categories. The applicant raised another issue, that being the issue of set asides for ongoing projects. He indicated that prior to this year's competition, the Planning Commission forwarded to the City Council a recommendation that the City conduct a two-year competition. It was recommended that up to 65% of the allocations be awarded to ongoing projects. The rationale behind this is that there are a number of projects that have been under construction, some as long as ten years. He said that it was an objective to complete projects but that it was not intended to incorporate a bias into the competition process. He said that in his 22-years of involvement in the Measure E/P process, he did not believe that the Planning Commission or staff showed any bias toward ongoing or existing development. The one bias is that up to 65% of the allocations should go to ongoing projects, noting that this was explained at the onset of the process. Applicants knew going in that one of the objectives to be accomplished is to try and complete some of the long ongoing projects. Based on the allocation that the Planning Commission approved last evening, the City will be able to complete three of the six existing ongoing projects. He indicated that there were going to be two or three new projects that will be receiving allocations based on the scoring criteria. He said that approximately 75% of the overall allocations went to ongoing projects and that 25% went to new development in this year's competition. He agreed that there were opportunity points for ongoing projects but that it was the idea to allow them to be competitive but not to have a competitive edge over new projects. He did not believe that the criterion, as currently written, necessarily tilts the criteria in favor of ongoing projects. He indicated that the allocation increased from 65% to 75% based on the final ranking and scoring. He indicated that the number of allocations available is based on the City's population. He noted that the current population increased the pool of building allocations by 18 units and that these 18 units are reflected in the distribution approved by the Planning Commission. He indicated that the 18 additional units did not go exclusively to new projects and that they were divided among the projects recommended for allocations.

Mayor Kennedy noted that 18 units become available based on the population and that they were not awarded to new projects.

Mr. Rowe explained the rankings approved in April by the Planning Commission were based on the total score. However, the Planning Commission did not award allocations to any of the projects until last night because they wanted to see if the pool of allocations would increase. He noted that the pool of allocations increased by 18. Therefore, the Planning Commission did not base their distribution on the

higher number of allocations available. If anything, it allowed them to include Coyote Estates, an ongoing project. He indicated that the total pool of allocations of 182 were distributed among various projects based on the Council's identified set aside distribution and the east/west Monterey distribution criteria. He indicated that the applicant felt that it was unfair that the two higher scoring ongoing projects should receive the allocation. The applicant felt that in fairness, no more than 65% of the allocations west of Monterey Road should have gone to ongoing project. This would result in allocations being made available to the next in line project, which would be this project. He said that the intent for the 65% was to help the ongoing projects be completed and that it was to be applied in situations where there would be higher new scoring projects that could conceivably take these allocations. This would result in an ongoing development not receiving an allotment or extending the projects even further. He stated that the overall ranking of a project is the primary determining factor by the Planning Commission in awarding allocations. Staff does not believe that the applicant's approach in terms of limiting the west side allocation to no more than 65% was the intent of applying the set asides to ongoing projects. Based on the review of the scoring, staff recommends the Council uphold the Planning Commission's evaluation of this project. He indicated that there are a few areas that the applicant is taking issue with, one being that the Planning Commission did not have the opportunity to do a further review because it was not requested of them when this went through the initial scoring.

Mayor Kennedy felt that there were several features of this project that were attractive: 1) it is within walking distance to an existing school; 2) it fills in an area across from Community Park, and 3) is adjacent to an existing higher density residential development. However, this project received a very low score. He felt that this project should be a high scoring project but yet it was not.

Mr. Rowe indicated that one category that the project did not score well was in the housing category. He noted that this property is within two different zoning districts (R1 and R2). In order to be given points under this category, 10% of the units have to be single family detached. This project provided only 2% that represent single family detached units. Therefore, this project did not do well in this respect. He felt that this project could score much better in the next go around. Staff could work with the applicant and identify areas that can be changed. He felt that this project has the potential of receiving the highest points under the housing categories with some site modifications. However, the way the project was laid out, it created some problems.

Mayor Kennedy inquired whether projects were given a full evaluation once it was determined that it falls beyond the allocation distribution line.

Mr. Rowe said that the Commission went through the hearings and allowed every applicant to address their projects even though they were out 20-30 points of the running and resulted in very long meetings. In prior years, the Planning Commission looked at the initial scoring and created a cut off. For those projects that were competitive, the applicants had an opportunity to speak. For projects not in the running, the Planning Commission accepted testimony but indicated that they would not spend a lot of time debating and discussing the remarks. Applicants felt that they should be given a reasonable amount of time to address their concerns. The Planning Commission instituted a process that helped them to shorten the length of the meetings. Applicants were provided with the initial evaluations 5½ weeks before the first scheduled public hearing. They were encouraged to provide a detailed written response to the initial evaluations. Any comments that the Planning Commission felt warranted further review,

they directed staff to reassess the categories. A third meeting was held for the purpose of making score adjustments.

Mayor Kennedy opened the public hearing.

John Dossetti indicated that he instigated bringing this property into the City, noting that it is a blighted area. The parcel is located across the street from new development, less than 500 feet from the Vineyard Town Center, will be located across the street from the new indoor recreation center, and backs up to the George Day development. He felt that Measure E/P was the dumbest thing that came into effect in 1978. He stated that the developer would like to build beautiful two-story homes and build a nice project. The Planning Commission did not look at the project and did not consider that this development would clean up the area. He did not believe that Pinn Brothers were given a fair chance to compete. He felt that Measure P was pointless and that it should be thrown out as it does not work.

Vince Burgess indicated that this is a moderate housing project and the inclusion of moderate units was new to this year's Measure P criterion. This project introduced both R-1 and R-2 housing units. It had a property line that bisected the property from the R-1 and R-2 in an unusual way. When he analyzed how he would separate the BMR, moderate units, and the R-1/R2 units, there was a lot of discussion on how this would happen. He noted that staff had difficulty scoring this portion of the project and that to this day, they still have issues on how to score it and how it should be analyzed as it is an awkward piece of property. He said that the Housing Division looked at the project recently and sees an adjustment that is not reflected on this particular score. Housing staff has even considered bringing the project's score down a few points. There was discussion at the Commission level on how they were going to score the criteria. One part of Measure P was viewed as having a typo and that this hurt the project's score.

Dick Oliver stated that he was not speaking against any of the applications. He felt that everyone has the right to appeal and that if there was a blatant error, it should be corrected and thus the purpose of the appeal process. He felt that a lot of the issues that the Council felt sympathetic to this evening could have been resolved by the applicants going through a preliminary Measure P application process. He stated that several developers have gone through this process. He said that lot layouts, number of driveways and locations of duets/triplexes can usually be resolved by preliminary Measure P and therefore, scores can be corrected. He felt that the Council would be doing a disservice to the Planning Commission if it does not realize the value that they spend hours and meetings to resolve what they felt was a fair determination of points in this process. There is a Measure P Update Committee that he services on whose charge is to rewrite Measure P to resolve some issues that come up each year. Applicants know that Measure P changes occur each year and that developers have to be attuned to the changes in order to attain the higher points. When you talk about adjacency relating to a stub street, you have to look at the Measure P language and how it is defined. The Planning Commission made an interpretation on adjacency. He felt that the Council needs to rely on the Planning Commission as they were appointed to do the job. The Planning Commission ties to do this job professionally and do it well. He did not believe that there was a bias toward ongoing projects, noting that two new projects were scored high. If the Council is proposing a change to the scoring, other projects should also be reviewed. Unless there has been a blatant error or an obvious miscarriage of justice, he did not believe that the Council should try to second guess the Planning Commission in what they did in their judgment after spending all the hours they did in listening to testimony. To say that the system is biased against

attached housing is not true as Joe DiConza's R-2 project is a new project that won allocation this year. He felt that the Planning Commission tried very hard, from a subjective point, to look at all the projects and come up with a meaningful score.

Mayor Kennedy said that a concern brought to his attention was the concern about being unfair, particularly with the Pinn Brother's project. A complaint was made that the Planning Commission did not give them a chance to make their comments known. He felt that the applicant has a right to be heard, even if it means going back to the Planning Commission.

Mr. Oliver felt that the applicant had a chance to be heard and that the Planning Commission did spend a lot of time discussing their comments. The Planning Commission heard the comments but were not swayed. To get a 20 point swing in points has never happened in the 15 years that he has worked with Measure E/P. He felt that the applicant had the full opportunity to make all of his points at a Planning Commission meeting. Their points were taken in but that the Planning Commission, because of the time element and the point structure, determined not to spend a lot of time discussing them. If the Council does not believe that this was a fair hearing, the Council would be correct in sending the project back to the Planning Commission. He expressed concern that the City was dragging out the time in which projects will receive allocations. He said that developers will have difficulty in trying to meet the Measure P time constraints in order to be in compliance with Measure P.

No further comments being offered, the public hearing was closed.

Council Member Sellers felt that it was clear that this project would not receive sufficient points to receive allocation. He said that there is a frustration in the whole point process but that this is the system in place. He said that he has reviewed all the specific issues relating to this project and that he did not see where changes were warranted. He would be willing to approve the resolution on this one. However, he would support sending any items that the Council believes should be referred to the Planning Commission. He did not see that it would be likely that the project would see a change in the point allocation based on the Council's action this evening. However, he felt that there were significant issues that need to be addressed in order to address the applicant's concern and for the integrity of the process. He noted that individuals felt that there were inconsistencies and inequities in the process. He felt that the Council needs to go back and address these inconsistencies and inequities and that there be clarification of the issues raised by the appellants, particularly for the first two appellant's.

Mayor Kennedy recommended referring this application back to the Planning Commission even though it would be unlikely that this project will score enough points to get back into running. He felt that the applicant needs a fair hearing. He did not want to ignore the hard work and energy that staff and the Planning Commission have done. He understands that this is a very lengthy and tedious process. He said that it is unusual that the Council receives three appeal applications. He requested that the Planning Commission hear the applicant's comments, changing the points if warranted.

Council Member Carr said that he understands the importance of having a fair hearing. He agreed that there is a big point gap with this project and that it would be hard to make up the gap. He expressed concern with the housing type and the housing needs issue for this application. He said that there needs to be some work done on these issues. He stated that he is passionate about need for housing. If a fair

hearing needs to happen, he would support referring the application back to the Planning Commission. He agreed that the Council needs to have the broader discussion of the ripple effect. He noted that the Planning Commission came up with the allotment distribution last night. He did not know what would happen if things changed. He did not want to set a precedent that encourages individuals to file appeals any more than they would normally have because of actions being taken this evening.

Mayor Kennedy expressed concern with the fact that the Planning Commission made allocations last night and that the Council is hearing appeals today. He felt that this preempts the Council's ability to act on the appeals. He inquired why the allocations were awarded prior to the Council's ability to hear appeals.

Mr. Rowe responded that the Municipal Code stipulates that the appeal period is to be established following the evaluations. He said that this was the first available Council meeting for the appeals to be considered. He stated that the Planning Commission's decision would not preempt any decision that the Council would make relative to the merits of each of the applications.

Mayor Kennedy felt that it was much more difficult for the Council to make an affective change of any allocations after the allocations have been awarded.

Planning Manager Rowe stated that in the past, the City did not wait until the Department of Finance estimates came out. The award of allocations occurred at the exact same meeting as the evaluations. In past years, when the Council considered appeals, it was at the time when the Planning Commission had already awarded the allocation. Therefore, there was no difference in hearing appeal requests.

Joe Mueller indicated that the Planning Commission was also concerned about making the allocations prior to Council hearing the appeals. Therefore, the Planning Commission conditioned the allocation to stipulate that should the appeal process alter the ranking of the projects; the Commission would have to revisit the allocations. The Planning Commission wanted to proceed with allocations last night so that the projects that received allocations would have a better chance to achieve timelines. He noted that Measure P has specific timelines when a developer has to have certain items completed once allocations are received. As the Planning Commission waited to receive the most recent Department of Finance numbers, the City is now a couple of months behind the period that it typically awards allocations. He said that a couple of months are critical to the development community who receive allocations to move forward. The Planning Commission moved forward with awarding allocations, saving time and allowing the projects to move forward. If the Council's action has the potential of altering the ranking, the Planning Commission would hold up the allocation award until the issue is resolved. It was a matter of allowing projects who received allocations to move forward with their projects in order to meet the Measure P timelines so that the City does not see requests for exceptions to loss of allocations a year from now. The Planning Commission did not want to have any impacts on the appeal hearings this evening and therefore qualified the action taken last night.

Mayor Kennedy supported sending this appeal application back to the Planning Commission for review so that the applicant has the opportunity to have his application heard.

Action: *On a motion by Mayor Kennedy and seconded by Council Member Sellers, the City Council, on a 3-0 vote with Mayor Pro Tempore Chang and Council Member Tate absent, **Referred** the application back to the Planning Commission to allow the applicant the opportunity to address the project.*

Council Member Sellers felt that it was important that the two issues raised this evening be addressed. He did not know the likelihood of any points being changed as a result or whether there would be sufficient points received to attain an allocation. However, he felt that it was critical to the integrity of the process that the Council sends these applications back to the Planning Commission for further consideration. He noted that several individuals have raised the consideration of broadening the process for developers to bring in projects and get them fine tuned at the front end. He felt that this would be an advantage of a two year process and that it was obvious tonight that it should be taken advantage of.

Mayor Kennedy said that he did not want to preclude changing points or changing the allocations. He felt that these applications need to have their opportunity to formally appeal the Planning Commission's decision, even if it means changing points and/or allocations.

Council Member Carr felt that it was important to state that in sending these projects back, it is not the intention of changing the criteria or the process. He said that he saw some difficulties in some of the projects that concern him, particularly for infill development and housing type. If this means that these are changes to the criteria for future competitions, he hopes that these are the comments that the Council hears back from the Planning Commission. He recommended that the Council move forward and try to be proactive with issues. He agreed that the projects need their fair hearings and that he wanted to make sure that the integrity of the process is in tact. However, he did not want to state that he is stepping in to preempt the criteria, the process, or the prior work of the Planning Commission. If there are items relating to the criteria that need to be addressed, he recommended that they be addressed in future competitions.

City Council Action

OTHER BUSINESS:

9. COMMUNITY INDOOR RECREATION CENTER APPROVAL OF SUBCOMMITTEE RECOMMENDATIONS

Deputy Director of Public Works Struve presented the staff report and presented the Community Indoor Recreation Subcommittee recommendations. He indicated that it is recommended that the subcommittee be expended beyond the two member subcommittee that would include up to three Parks and Recreation Commissioners, one representative from each of the Senior and Youth Advisory Committees.

Mayor Kennedy inquired whether the subcommittee looked at comparable schedules, designs, and bid constructions of other similar projects, particularly those of Colorado.

Council Member Sellers said that the subcommittee looked at a project in Morgan Hill that was recently completed and that the timeline for this center is at a shorter timeline. Therefore, this was a factor. He

said that the indoor recreation center is larger and more complex than the Community & Cultural Center (C&CC), and in some ways more complex because of the locker room, the aquatic element and some of the other elements. The subcommittee felt that the schedule was shortened, taking into account that the time of year was not as critical for the indoor recreation center. In terms of usage, it was felt to be important to have the facility completed in early spring or early summer for use by the community's youth.

Senior Project Manager Dumas indicated that he spoke with the Sports Management Group regarding schedules for other similar projects. He stated that in a particular project, they were trying to accelerate the schedule. He said that the indoor recreation center has an approximately three year schedule. In talking to Lauren Livingston at Sports Management Group, this is about the average timeline for a facility similar to this. It was belief that the schedule could be accelerated, but that it was felt that it would be too much of a risk to develop an accelerated schedule.

Mayor Kennedy noted the length of design, including schematic design development and contract documents is projected at 17-month. He said that this appears to be an excessive timeline. He felt that there were ways to keep the design moving forward.

Mr. Dumas indicated that the timeline for the C&CC was 18-months (7 months schematic design, 4 months design development and 7 months contract documents). He noted that this that this project is proposed at a 17-month schedule, an aggressive timeline.

Mayor Pro Tempore Chang felt that the C&CC turned out all right with an 18-month timeline. She noted that this project would be a three segment project: youth, senior and indoor swimming facility. Therefore, this would be a complicated project. She felt that a target completion date of May 2006 was a good design time estimate.

Mayor Kennedy felt that the C&CC had a very long, drawn out design process. He felt that a winter time completion date should be targeted.

Council Member Sellers said that a significant part of the drive of the process is Council decisions made at each review. He indicated that the committee felt that it was important to include other individuals. The committee recommends accelerating the committee and council's review. It may be the case that there may be relatively few changes and few reviews that take an excessively long time. He felt that the timeline can be met or expedited, depending on how fast the Council can conduct its review. However, the design of the center is critical to its success.

Mr. Struve informed the Council that the Parks and Recreation Commission met on May 20 and recommended the appointment of three Commissioners to the subcommittee: Commissioners Page, Van Keulen, and Kenney.

Mayor Kennedy supported the appointment of a representative from the Youth and Senior Advisory Committees. He further recommended the appointment of an Architectural Review Board member. He felt that inclusion of these members may possibly speed up the process.

Mayor Kennedy opened the floor to public comment.

Cindy Gobin said that she was encouraged to hear that the City was willing to proceed with the construction as quickly as possible. She felt that it was always better to spend a little more time and money to do something right in the beginning. She inquired as to the difference between the \$1.2 million gold level and \$1/2 million silver LEED levels. She encouraged the City to work toward achieving gold, if possible. She would support paying more money to construct the facility right in the first place.

Mr. Struve indicated that the primary difference between achieving gold and silver levels are costs upfront. However, there is a balance and tradeoff with the trade off being how much of the initial investment the City would gain in the long term for reduction in maintenance and operational costs.

Council Member Sellers said that the Council will be spending time in a workshop setting to discuss the LEED details as well as the cost trade offs. He said that this would be a step by step process. He said that there is a formal LEED process to attain certification and that it was found, in previous projects, that it was more ceremonial or would not apply as much to Morgan Hill projects. The Council is trying to figure out the specific design elements that would provide the greatest benefit in Morgan Hill for this specific project as a goal. He indicated that this would be a multi step process and that everyone will be able to provide input as the project proceeds.

Action: *On a motion by Council Member Carr and seconded by Council Member Sellers, the City Council, on a 4-0 vote with Council Member Tate absent, **Received** Report and **Approved** Subcommittee Recommendations.*

Council Member Carr felt that it was a great idea to have the LEED workshop to discuss its benefits and to determine whether the Council wants to make a commitment to achieving LEED certification. He said that it may be that the Council may not want to make a commitment to LEED and that the Council may wish to make a stronger commitment toward energy conservation, environmental protection in City projects, or move toward the City's own standard as a commitment. He indicated that he did not understand the LEED process but that it seems to add a lot of cost. He was not sure if the Council has seen what the benefits of LEED and that a tutorial workshop would help understand the benefits LEED.

Mr. Struve informed the Council that a LEED Charrette tutorial workshop will be held on June 12 from 9:00 a.m. – 1 p.m. at the C&CC.

10. BUSINESS TERMS FOR THE ACQUISITION OF 16200 VINEYARD BOULEVARD FOR A POLICE FACILITY

Director of Business Assistance and Housing Services Toy presented the staff report.

Mayor Kennedy opened the public comment. No comments were offered.

Action: *On a motion by Council Member Carr and seconded by Council Member Sellers, the City Council, on a 4-0 with Council Member Tate absent, **Approved** the Business Terms and*

Directed the City Manager to Prepare and Negotiate the Necessary Agreements for the Acquisition and Lease of 16200 Vineyard Boulevard.

FUTURE COUNCIL-INITIATED AGENDA ITEMS

No items were identified.

Redevelopment Agency and City Council Action

CLOSED SESSIONS:

Agency Counsel/City Attorney Leichter announced the below listed closed session items.

1.

CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION

Significant Exposure to Initiation of Litigation

Authority: Government Code Sections 54956.9(b) & (c)

Number of Potential Cases: 2

2.

CONFERENCE WITH LABOR NEGOTIATOR:

Authority: Government Code Section 54957.6

Agency Negotiators: Ed Tewes, City Manager; Helene L. Leichter, City Attorney; Mary Kaye Fisher, Human Resources Director

Employee Organization: AFSCME Local 101
Morgan Hill Community Service Officers Association
Morgan Hill Police Officers Association

Unrepresented Employees: Custodian/Building Maintenance Worker
Government Access Technician
Maintenance Worker Assistant
Utility Worker Assistant

Executive Management Group 1-A

Chief of Police
Director of Business Assistance & Housing Services
Director of Community Development
Director of Finance
Director of Public Works/City Engineer
Human Resources Director
Recreation and Community Services Manager
Assistant to the city Manager
Council Services and Records Manager

Middle Management Group 1-B

Police Captain
Deputy Director of Public Works
Assistant City Attorney
Assistant Director of Finance
Chief Building Official

Human Resources Supervisor
Planning Manager
Senior Civil Engineer
Budget Manager
Business Assistance and Housing Services Manager
Police Support Services Supervisor
Senior Planner
Project Manager
Utility Systems Manager
Recreation Supervisor
Secretary to the City Manager

Confidential Non-Exempt Employees Group 1-C
Administrative Analyst
Secretary to the City Attorney
Accounting Technician
Human Resources Assistant

3.

EXISTING LITIGATION

Authority:

Government Code section 54956.9(a)

Case Name/Number:

Santa Teresa Citizen Action Group et al. v. Bay Area Air Quality
Management District (San Francisco Superior Court, CPF-02-50164).

4.

PUBLIC EMPLOYEE PERFORMANCE EVALUATION

Pursuant to Government Code 54957

Public Employee Performance Evaluation: City Manager

Attendees: City Council, City Manager

OPPORTUNITY FOR PUBLIC COMMENT

Chairperson/Mayor Kennedy opened the Closed Session items to public comment. No comments were offered.

ADJOURN TO CLOSED SESSION

Chairperson/Mayor adjourned the meeting to Closed Session at 10:26 p.m.

RECONVENE

Chairperson/Mayor reconvened the meeting at 12:04 a.m.

CLOSED SESSION ANNOUNCEMENT

Agency Counsel/City Attorney Leichter announced that no reportable action was taken in closed session.

ADJOURNMENT

There being no further business, Chairperson/Mayor Kennedy adjourned the meeting at 12:05 a.m.

MINUTES RECORDED AND PREPARED BY:

IRMA TORREZ, AGENCY SECRETARY/CITY CLERK